

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA	)	
	)	
	)	DOCKET NO. 3:13-cr-204-MOC
	)	
v.	)	
	)	
	)	<b>GOVERNMENT'S</b>
BOGGS PAVING, INC. <i>et al.</i>	)	<b>MOTION TO CORRECT</b>
	)	<b>INDICTMENT</b>
_____	)	

The United States of America, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, hereby moves to correct the Indictment returned by the Grand Jury and filed with this court on July 24, 2013.

When the indictment was printed for the grand jury, the formatting of the indentations changed from the original version of the Indictment. The attached copy of the Indictment will make it easier for the Court, the Defendants, and the Jury to read the Indictment.

No changes have been made to the language in the Indictment whatsoever. The only changes are to indentations.

Corrections to an indictment do not need to be resubmitted to the grand jury. *See Russell v. United States*, 369 U.S. 749 at 770 (1962) ("settled rule in the federal courts that an indictment may not be amended except by resubmission to the grand jury, unless the change is merely a matter of form"); *United States v. Whitfield*, 695 F.3d 288 (4th Cir. 2012)(An indictment can be amended without further consideration by the grand jury when it is necessary to correct the indictment's form, for example, a misnomer, or a typographical error).

The undersigned has consulted with defense counsel regarding this motion. Attorneys for Defendant Boggs Paving, Inc., Defendant Drew Boggs, Defendant Kevin Hicks, and Defendant

Greg Tucker do not oppose this motion. The undersigned has not yet heard back from attorneys for Defendants Greg Miller, Styx Cuthbertson Trucking, or John Cuthbertson.

Respectfully submitted, this, the 25th day of July 2013.

ANNE M. TOMPKINS  
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July, 2013, this document was served upon Defendants by email at the following addresses:

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